

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
)
DANA MICHELLE VALORIE CALHOUN) CASE NO. 18-60054-PMB
)
)
DEBTOR.)

**CHAPTER 13 TRUSTEE'S
OBJECTION TO CONFIRMATION & MOTION TO DISMISS CASE
PURSUANT TO 11 U.S.C. SECTION 109(g)(1)**

COMES NOW Melissa J. Davey, Chapter 13 Trustee, and objects to confirmation of the plan and files this motion to dismiss under 11 U.S.C. Sections 1307(c), 109(g), 349(a), and 105(a), for cause, including the following reasons:

1. The plan as proposed will extend beyond sixty (60) months, contrary to 11 U.S.C. Section 1322(d).
2. In accordance with General Order Nos. 18-2015 and/or 22-2017 and the Statement of Rights and Responsibilities, the Debtor's attorney should timely provide proof of Debtor's \$352.00 per month food stamp income to the Chapter 13 Trustee. 11 U.S.C. Sections 521(a)(1), 1325(a)(3), 1325(a)(6), 1325(b)(1)(B) and Bankruptcy Rule 1007.
3. The Debtor has failed to provide the Trustee with a copy of the 2017 federal income tax return for the most recent tax year ending immediately before the commencement of the instant case in violation of 11 U.S.C. Section 521(e)(2)(A)(i).
4. The Trustee requests proof that Debtor has paid the post-petition mortgage payments for Debtor's residence in order to determine whether the Plan complies with 11 U.S.C. Sections 1325(a)(3) and 1325(b)(1)(B).
5. The Chapter 13 Plan fails to treat the scheduled secured/priority claim of Acceptance Rentals, in violation of 11 U.S.C. Sections 1322(a)(2) and/or 1325(a)(5).
6. Debtor has failed to file a Certificate of Manner of Service showing proper service pursuant to Federal Rules of Bankruptcy Procedure 2002, 3015, and 7004 in violation of NDGA Bankruptcy Court General Order 21-2017.

7. The Chapter 13 plan proposes to pay \$5,300.00 to the Debtor's Attorney for payment of attorney fees. The Trustee is unable to determine whether this is a reasonable fee and would request that Debtor's counsel appear at confirmation and be prepared to present evidence to the Court regarding the reasonableness of the requested fee.

8. The Plan and/or Rule 2016(b) Disclosure Statement fail to contain provisions regarding attorney's fees that comply with the specificity requirements of General Orders 18-2015 and/or 22-2017, as \$75.00 was paid up front.

9. Pursuant to Debtor's testimony, Debtor will not have a Homeowner's Association expense of \$399.00 per month until January of 2019, since she expects the proof of claim to include the entire Homeowner's Association dues for 2018. Debtor could afford to pay an additional \$399.00 per month to Plan payments until January of 2019, but fails to do so. 11 U.S.C. Section 1325(a)(3).

10. Debtor has filed two (2) previous unsuccessful Chapter 13 cases, being case number 15-68517 filed September 25, 2015 and dismissed after confirmation June 1, 2018 and case number 15-57314 filed April 21, 2015 and dismissed prior to confirmation September 24, 2015. Based on the foregoing, the Chapter 13 Trustee respectfully moves the Court to dismiss the instant case with prejudice, thereby rendering the Debtor ineligible for relief under Title 11 for one hundred eighty (180) days, pursuant to 11 U.S.C. Sections 1325(a)(3), 1325(a)(7), 105(a), 109(g) and 349(a).

WHEREFORE, the Trustee moves the Honorable Court to inquire into the above objections at the separately scheduled and noticed confirmation hearing, deny Confirmation of the Debtor's Chapter 13 plan and dismiss the case pursuant to 11 U.S.C. Sections 105(a) and 109(g), thereby rendering the Debtor ineligible from re-filing another Chapter 13 case for one hundred eighty (180) days.


/s/ Mandy K. Campbell

Mandy K. Campbell
Attorney for Chapter 13 Trustee
GA Bar No. 142676

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CERTIFICATE OF SERVICE

This is to certify that I have this day served:

DEBTOR(S):
DANA MICHELLE VALORIE CALHOUN
6980 ROSWELL ROAD
UNIT M6
ATLANTA, GA 30328

DEBTOR(S) ATTORNEY:
SLIPAKOFF & SLOMKA, PC
OVERLOOK III, SUITE 1700
2859 PACES FERRY RD, SE
ATLANTA, GA 30339

in the foregoing matter with a copy of this Objection to Confirmation & Motion to Dismiss by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

Tuesday, August 7, 2018



Mandy Campbell
GA Bar No. 142676
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